

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION

**Case Number: 23-60470-CIV-MARTINEZ-VALLE**

OSMEL GOMEZ and YAMILA TAMAYO,

Plaintiffs,

v.

RIGAM BALLEGI S.R.L.,

Defendant.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

**THIS CAUSE** was referred to the Honorable Alicia O. Valle, United States Magistrate Judge, for a Report and Recommendation ("R&R") on Plaintiffs' Motion for Default Judgment and Jury Trial on Damages ("Motion"), (ECF No. 19). (ECF No. 20). Judge Valle has filed an R&R, recommending that the Motion be granted in part and denied in part. (*See* ECF No. 21 at 10). The Court has reviewed the entire file and record, and notes that no objections have been filed to the R&R.

The Court is unpersuaded that a jury trial on damages is warranted at this stage. As noted by Judge Valle, "upon a default judgment where the facts are undisputed, a court may award damages without an evidentiary hearing based upon affidavits and other documentary evidence." (ECF No. 21 at 8–9); Fed. R. Civ. P. 55(b)(1) ("If the plaintiff's claim is for a sum certain that can be made certain by computation, the clerk – on the plaintiff's request, with an affidavit showing the amount due – must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person."). Judge Valle ordered Plaintiffs to "file an affidavit (with supporting evidence) to substantiate their request for

damages.” (ECF No. 21 at 10). Plaintiffs’ thirteen notices of filing affidavit and supporting evidence are deficient as damages still cannot reasonably be calculated. (ECF Nos. 24, 25, 28–38). Plaintiffs did not request any specific amount of damages nor explain how the filed evidence supports their request for damages. Accordingly, after careful consideration, it is hereby

**ORDERED AND ADJUDGED** as follows:

1. The R&R on Plaintiffs’ Motion for Default Judgment and Jury Trial on Damages, (ECF No. 21), is **AFFIRMED AND ADOPTED**.

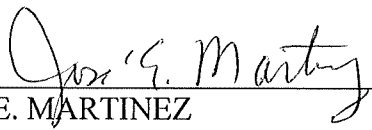
2. Plaintiffs’ Motion for Default Judgment and Jury Trial on Damages, (ECF No. 19), is **GRANTED IN PART AND DENIED IN PART**. More specifically:

a. Plaintiffs’ request for a final default judgment solely as to liability is **GRANTED**.

b. Plaintiffs’ request for a jury trial on damages is **DENIED without prejudice**.

3. Within **30 days** from the entry of this Order, Plaintiffs shall file either (1) an affidavit (with supporting evidence) that includes the amount of damages requested, if reasonably calculable, or (2) a renewed motion for jury trial on damages or a motion for an evidentiary hearing that includes an explanation as to why the damages are not reasonably calculable and a jury trial is necessary.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 18 day of March, 2025.

  
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JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
Magistrate Judge Valle  
All Counsel of Record